

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 5933  
OFFERED BY MRS. STEEL OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Defending Education  
3 Transparency and Ending Rogue Regimes Engaging in  
4 Nefarious Transactions Act” or the “DETERRENT  
5 Act”.

**6 SEC. 2. DISCLOSURES OF FOREIGN GIFTS.**

7 (a) IN GENERAL.—Section 117 of the Higher Edu-  
8 cation Act of 1965 (20 U.S.C. 1011f) is amended to read  
9 as follows:

**10 “SEC. 117. DISCLOSURES OF FOREIGN GIFTS.**

11 “(a) DISCLOSURE REPORTS.—

12 “(1) AGGREGATE GIFTS AND CONTRACT DIS-  
13 CLOSURES.—An institution shall file a disclosure re-  
14 port in accordance with subsection (b)(1) with the  
15 Secretary on July 31 of the calendar year imme-  
16 diately following any calendar year in which—

17 “(A) the institution receives a gift from, or  
18 enters into a contract with, a foreign source

1 (other than a foreign country of concern or for-  
2 eign entity of concern)—

3 “(i) the value of which is \$50,000 or  
4 more, considered alone or in combination  
5 with all other gifts from, or contracts with,  
6 that foreign source within the calendar  
7 year; or

8 “(ii) the value of which is undeter-  
9 mined; or

10 “(B) the institution receives a gift from a  
11 foreign country of concern or foreign entity of  
12 concern, or, upon receiving a waiver under sec-  
13 tion 117A to enter into a contract with such a  
14 country or entity, enters into such contract,  
15 without regard to the value of such gift or con-  
16 tract.

17 “(2) FOREIGN SOURCE OWNERSHIP OR CON-  
18 TROL DISCLOSURES.—In the case of an institution  
19 that is substantially controlled (as described in sec-  
20 tion 668.174(c)(3) of title 34, Code of Federal Reg-  
21 ulations) (or successor regulations)) by a foreign  
22 source, the institution shall file a disclosure report  
23 in accordance with subsection (b)(2) with the Sec-  
24 retary on July 31 of each year.

1           “(3) TREATMENT OF AFFILIATED ENTITIES.—

2           For purposes of this section, any gift to, or contract  
3           with, an affiliated entity of an institution shall be  
4           considered a gift to or contract with, respectively,  
5           such institution.

6           “(b) CONTENTS OF REPORT.—

7           “(1) GIFTS AND CONTRACTS.—Each report to  
8           the Secretary required under subsection (a)(1) shall  
9           contain the following:

10                   “(A) With respect to a gift received from,  
11                   or a contract entered into with, any foreign  
12                   source—

13                           “(i) the terms of such gift or contract,  
14                   including—

15                                   “(I) the name of the individual,  
16                                   department, or benefactor at the insti-  
17                                   tution receiving the gift or carrying  
18                                   out the contract;

19                                   “(II) the intended purpose of  
20                                   such gift or contract, as provided to  
21                                   the institution by such foreign source,  
22                                   or if no such purpose is provided by  
23                                   such foreign source, the intended use  
24                                   of such gift or contract, as provided  
25                                   by the institution; and

1 “(III) in the case of a restricted  
2 or conditional gift or contract, a de-  
3 scription of the restrictions or condi-  
4 tions of such gift or contract;

5 “(ii) with respect to a gift—

6 “(I) the total fair market dollar  
7 amount or dollar value of the gift, as  
8 of the date of submission of such re-  
9 port; and

10 “(II) the date on which the insti-  
11 tution received such gift;

12 “(iii) with respect to a contract—

13 “(I) the date on which such con-  
14 tract commences;

15 “(II) as applicable, the date on  
16 which such contract terminates; and

17 “(III) an assurance that the in-  
18 stitution will—

19 “(aa) maintain an  
20 unredacted copy of the contract  
21 until the latest of—

22 “(AA) the date that is  
23 4 years after the date on  
24 which the contract com-  
25 mences;

1                   “(BB) the date on  
2                   which the contract termi-  
3                   nates; or

4                   “(CC) the last day of  
5                   any period that applicable  
6                   State law requires a copy of  
7                   such contract to be main-  
8                   tained; and

9                   “(bb) upon request of the  
10                  Secretary during an investigation  
11                  under subsection (f)(1), produce  
12                  such an unredacted copy of the  
13                  contract; and

14                  “(iv) an assurance that in a case in  
15                  which information is required to be dis-  
16                  closed under this section with respect to a  
17                  gift or contract that is not in English, such  
18                  information is translated into English in  
19                  compliance with the requirements of sub-  
20                  section (c)(1).

21                  “(B) With respect to a gift received from,  
22                  or a contract entered into with, a foreign source  
23                  that is a foreign government (other than the  
24                  government of a foreign country of concern)—

1                   “(i) the name of such foreign govern-  
2                   ment;

3                   “(ii) the department, agency, office,  
4                   or division of such foreign government that  
5                   approved such gift or contract, as applica-  
6                   ble; and

7                   “(iii) the physical mailing address of  
8                   such department, agency, office, or divi-  
9                   sion.

10                  “(C) With respect to a gift received from,  
11                  or contract entered into with, a foreign source  
12                  (other than a foreign government subject to the  
13                  requirements of subparagraph (B))—

14                         “(i) the legal name of the foreign  
15                         source, or, if such name is not available, a  
16                         statement certified by the compliance offi-  
17                         cer in accordance with subsection (f)(2)  
18                         that the institution has reasonably at-  
19                         tempted to obtain such name;

20                         “(ii) in the case of a foreign source  
21                         that is a natural person, the country of  
22                         citizenship of such person, or, if such coun-  
23                         try is not known, the principal country of  
24                         residence of such person;

1           “(iii) in the case of a foreign source  
2           that is a legal entity, the country in which  
3           such entity is incorporated, or if such in-  
4           formation is not available, the principal  
5           place of business of such entity; and

6           “(iv) the physical mailing address of  
7           such foreign source, or if such address is  
8           not available, a statement certified by the  
9           compliance officer in accordance with sub-  
10          section (f)(2) that the institution has rea-  
11          sonably attempted to obtain such address.

12          “(D) With respect to a contract entered  
13          into with a foreign source that is a foreign  
14          country of concern or a foreign entity of con-  
15          cern—

16                 “(i) a complete and unredacted text of  
17                 the original contract, and if such original  
18                 contract is not in English, a translated  
19                 copy of the text into English;

20                 “(ii) a copy of the waiver received  
21                 under section 117A for such contract; and

22                 “(iii) the statement submitted by the  
23                 institution for purposes of receiving such a  
24                 waiver under section 117A(b)(1).

1           “(2) FOREIGN SOURCE OWNERSHIP OR CON-  
2           TROL.—Each report to the Secretary required under  
3           subsection (a)(2) shall contain—

4                   “(A) the legal name and address of the  
5           foreign source that owns or controls the institu-  
6           tion;

7                   “(B) the date on which the foreign source  
8           assumed ownership or control; and

9                   “(C) any changes in program or structure  
10          resulting from the change in ownership or con-  
11          trol.

12          “(c) TRANSLATION REQUIREMENTS.—Any informa-  
13          tion required to be disclosed under this section with re-  
14          spect to a gift or contract that is not in English shall be  
15          translated, for purposes of such disclosure, by a person  
16          that is not an affiliated entity or agent of the foreign  
17          source involved with such gift or contract.

18          “(d) PUBLIC INSPECTION.—

19                   “(1) DATABASE REQUIREMENT.—Beginning not  
20          later than 60 days before the July 31 immediately  
21          following the date of the enactment of the DETER-  
22          RENT Act, the Secretary shall—

23                           “(A) establish and maintain a searchable  
24          database on a website of the Department, under  
25          which all reports submitted under this section



1 (including any report submitted under this sec-  
2 tion before the date of the enactment of the  
3 DETERRENT Act)—

4 “(i) are made publicly available (in  
5 electronic and downloadable format), in-  
6 cluding any information provided in such  
7 reports (other than the information prohib-  
8 ited from being publicly disclosed pursuant  
9 to paragraph (2));

10 “(ii) can be individually identified and  
11 compared; and

12 “(iii) are searchable and sortable by—

13 “(I) the date the institution filed  
14 such report;

15 “(II) the date on which the insti-  
16 tution received the gift, or entered  
17 into the contract, which is the subject  
18 of the report;

19 “(III) the attributable country of  
20 such gift or contract; and

21 “(IV) the name of the foreign  
22 source (other than a foreign source  
23 that is a natural person);

1           “(B) not later than 30 days after receipt  
2 of a disclosure report under this section, include  
3 such report in such database;

4           “(C) indicate, as part of the public record  
5 of a report included in such database, whether  
6 the report is with respect to a gift received  
7 from, or a contract entered into with—

8                   “(i) a foreign source that is a foreign  
9 government; or

10                   “(ii) a foreign source that is not a for-  
11 eign government; and

12           “(D) with respect to a disclosure report  
13 that does not include the name or address of a  
14 foreign source, indicate, as part of the public  
15 record of such report included in such database,  
16 that such report did not include such informa-  
17 tion.

18           “(2) NAME AND ADDRESS OF FOREIGN  
19 SOURCE.—The Secretary shall not disclose the name  
20 or address of a foreign source that is a natural per-  
21 son (other than the attributable country of such for-  
22 eign source) included in a disclosure report—

23                   “(A) as part of the public record of such  
24 disclosure report described in paragraph (1); or

1           “(B) in response to a request under sec-  
2           tion 552 of title 5, United States Code (com-  
3           monly known as the ‘Freedom of Information  
4           Act’), pursuant to subsection (b)(3) of such sec-  
5           tion.

6           “(e) INTERAGENCY INFORMATION SHARING.—Not  
7           later than 30 days after receiving a disclosure report from  
8           an institution in compliance with this section, the Sec-  
9           retary shall transmit an unredacted copy of such report  
10          (that includes the name and address of a foreign source  
11          disclosed in such report) to the Director of the Federal  
12          Bureau of Investigation, the Director of National Intel-  
13          ligence, the Director of the Central Intelligence Agency,  
14          the Secretary of State, the Secretary of Defense, the At-  
15          torney General, the Secretary of Commerce, the Secretary  
16          of Homeland Security, the Secretary of Energy, the Direc-  
17          tor of the National Science Foundation, and the Director  
18          of the National Institutes of Health.

19          “(f) COMPLIANCE OFFICER.—Any institution that is  
20          required to file a disclosure report under subsection (a)  
21          shall designate, before the filing deadline for such report,  
22          and maintain a compliance officer, who shall—

23                 “(1) be a current employee or legally authorized  
24                 agent of such institution; and

1           “(2) be responsible, on behalf of the institution,  
2           for personally certifying accurate compliance with  
3           the foreign gift reporting requirement under this  
4           section.

5           “(g) DEFINITIONS.—In this section:

6           “(1) AFFILIATED ENTITY.—The term ‘affiliated  
7           entity’, when used with respect to an institution,  
8           means an entity or organization that operates pri-  
9           marily for the benefit of, or under the auspices of,  
10          such institution, including a foundation of the insti-  
11          tution or a related entity (such as any educational,  
12          cultural, or language entity).

13          “(2) ATTRIBUTABLE COUNTRY.—The term ‘at-  
14          tributable country’ means—

15                 “(A) the country of citizenship of a foreign  
16                 source who is a natural person, or, if such  
17                 country is unknown, the principal residence (as  
18                 applicable) of such foreign source; or

19                 “(B) the country of incorporation of a for-  
20                 eign source that is a legal entity, or, if such  
21                 country is unknown, the principal place of busi-  
22                 ness (as applicable) of such foreign source.

23          “(3) CONTRACT.—The term ‘contract’—

24                 “(A) means—

1           “(i) any agreement for the acquisition  
2           by purchase, lease, or barter of property or  
3           services by the foreign source;

4           “(ii) any affiliation, agreement, or  
5           similar transaction with a foreign source  
6           that involves the use or exchange of an in-  
7           stitution’s name, likeness, time, services, or  
8           resources; and

9           “(iii) any agreement for the acqui-  
10          sition by purchase, lease, or barter, of prop-  
11          erty or services from a foreign source  
12          (other than an arms-length agreement for  
13          such acquisition from a foreign source that  
14          is not a foreign country of concern or a  
15          foreign entity of concern); and

16          “(B) does not include an agreement made  
17          between an institution and a foreign source re-  
18          garding any payment of one or more elements  
19          of a student’s cost of attendance (as such term  
20          is defined in section 472), unless such an agree-  
21          ment is made for more than 15 students or is  
22          made under a restricted or conditional contract.

23          “(4) FOREIGN SOURCE.—The term ‘foreign  
24          source’ means—

1           “(A) a foreign government, including an  
2 agency of a foreign government;

3           “(B) a legal entity, governmental or other-  
4 wise, created under the laws of a foreign state  
5 or states;

6           “(C) a legal entity, governmental or other-  
7 wise, substantially controlled (as described in  
8 section 668.174(c)(3) of title 34, Code of Fed-  
9 eral Regulations) (or successor regulations)) by  
10 a foreign source;

11           “(D) a natural person who is not a citizen  
12 or a national of the United States or a trust  
13 territory or protectorate thereof; and

14           “(E) an agent of a foreign source, includ-  
15 ing—

16           “(i) a subsidiary or affiliate of a for-  
17 eign legal entity, acting on behalf of a for-  
18 eign source;

19           “(ii) a person that operates primarily  
20 for the benefit of, or under the auspices of,  
21 a foreign source, including a foundation or  
22 a related entity (such as any educational,  
23 cultural, or language entity); and

24           “(iii) a person who is an agent of a  
25 foreign principal (as such term is defined

1 in section 1 of the Foreign Agents Reg-  
2 istration Act of 1938 (22 U.S.C. 611).

3 “(5) GIFT.—The term ‘gift’—

4 “(A) means any gift of money, property,  
5 resources, staff, or services; and

6 “(B) does not include—

7 “(i) any payment of one or more ele-  
8 ments of a student’s cost of attendance (as  
9 such term is defined in section 472) to an  
10 institution by, or scholarship from, a for-  
11 eign source who is a natural person, acting  
12 in their individual capacity and not as an  
13 agent for, at the request or direction of, or  
14 on behalf of, any person or entity (except  
15 the student), made for not more than 15  
16 students, and that is not made under a re-  
17 stricted or conditional contract with such  
18 foreign source; or

19 “(ii) assignment or license of reg-  
20 istered industrial and intellectual property  
21 rights, such as patents, utility models,  
22 trademarks, or copyrights, or technical as-  
23 sistance, that are not identified as being  
24 associated with a national security risk or  
25 concern by the Federal Research Security

1 Council as described under section 7902 of  
2 title 31, United States Code; or

3 “(iii) decorations (as such term is de-  
4 fined in section 7342(a) of title 5, United  
5 States Code).

6 “(6) RESTRICTED OR CONDITIONAL GIFT OR  
7 CONTRACT.—The term ‘restricted or conditional gift  
8 or contract’ means any endowment, gift, grant, con-  
9 tract, award, present, or property of any kind which  
10 includes provisions regarding—

11 “(A) the employment, assignment, or ter-  
12 mination of faculty;

13 “(B) the establishment of departments,  
14 centers, institutes, instructional programs, re-  
15 search or lecture programs, or new faculty posi-  
16 tions;

17 “(C) the selection, admission, or education  
18 of students;

19 “(D) the award of grants, loans, scholar-  
20 ships, fellowships, or other forms of financial  
21 aid restricted to students of a specified country,  
22 religion, sex, ethnic origin, or political opinion;  
23 or

24 “(E) any other restriction on the use of a  
25 gift or contract.”.



1 (b) PROHIBITION ON CONTRACTS WITH CERTAIN  
2 FOREIGN ENTITIES AND COUNTRIES.—Part B of title I  
3 of the Higher Education Act of 1965 (20 U.S.C. 1011  
4 et seq.) is amended by inserting after section 117 the fol-  
5 lowing:

6 **“SEC. 117A. PROHIBITION ON CONTRACTS WITH CERTAIN**  
7 **FOREIGN ENTITIES AND COUNTRIES.**

8 “(a) IN GENERAL.—An institution shall not enter  
9 into a contract with a foreign country of concern or a for-  
10 eign entity of concern.

11 “(b) WAIVERS.—

12 “(1) SUBMISSION.—

13 “(A) FIRST WAIVER REQUESTS.—

14 “(i) IN GENERAL.—An institution  
15 that desires to enter into a contract with  
16 a foreign entity of concern or a foreign  
17 country of concern may submit to the Sec-  
18 retary, not later than 60 days before the  
19 institution enters into such a contract, a  
20 request to waive the prohibition under sub-  
21 section (a) with respect to such contract.

22 “(ii) CONTENTS OF WAIVER RE-  
23 QUEST.—A waiver request submitted by an  
24 institution under clause (i) shall include—

1                   “(I) the complete and unredacted  
2                   text of the proposed contract for  
3                   which the waiver is being requested,  
4                   and if such original contract is not in  
5                   English, a translated copy of the text  
6                   into English (in a manner that com-  
7                   plies with section 117(c)); and

8                   “(II) a statement that—

9                   “(aa) is signed by the point  
10                  of contact of the institution de-  
11                  scribed in section 117(h); and

12                  “(bb) includes information  
13                  that demonstrates that such con-  
14                  tract is for the benefit of the in-  
15                  stitution’s mission and students  
16                  and will promote the security,  
17                  stability, and economic vitality of  
18                  the United States.

19                  “(B) RENEWAL WAIVER REQUESTS.—

20                  “(i) IN GENERAL.—An institution  
21                  that has entered into a contract pursuant  
22                  to a waiver issued under this section, the  
23                  term of which is longer than the 1-year  
24                  waiver period and the terms and conditions  
25                  of which remain the same as the proposed

1 contract submitted as part of the request  
2 for such waiver may submit, not later than  
3 60 days before the expiration of such waiv-  
4 er period, a request for a renewal of such  
5 waiver for an additional 1-year period  
6 (which shall include any information re-  
7 quested by the Secretary).

8 “(ii) TERMINATION.—If the institu-  
9 tion fails to submit a request under clause  
10 (i) or is not granted a renewal under such  
11 clause, such institution shall terminate  
12 such contract on the last day of the origi-  
13 nal 1-year waiver period.

14 “(2) WAIVER ISSUANCE.—The Secretary—

15 “(A) not later than 60 days after receiving  
16 a request for a waiver or renewal of a waiver  
17 under this section from an institution, shall no-  
18 tify the institution—

19 “(i) if the waiver or renewal will be  
20 issued by the Secretary; and

21 “(ii) in a case in which the waiver or  
22 renewal will be issued, the date on which  
23 the 1-year waiver period starts; and

24 “(B) may only issue a waiver under this  
25 section to an institution if the Secretary deter-

1 mines, in consultation with the heads of each  
2 agency and department listed in section 117(e),  
3 that the contract for which the waiver is being  
4 requested is for the benefit of the institution's  
5 mission and students and will promote the secu-  
6 rity, stability, and economic vitality of the  
7 United States.

8 “(3) DISCLOSURE.—Not less than 2 weeks  
9 prior to issuing a waiver under paragraph (2), the  
10 Secretary shall notify the—

11 “(A) the Committee on Education and the  
12 Workforce of the House of Representatives; and

13 “(B) the Committee on Health, Education,  
14 Labor, and Pensions of the Senate,  
15 of the intent to issue the waiver, including a jus-  
16 tification for the waiver.

17 “(4) APPLICATION OF WAIVERS.—A waiver  
18 issued under this section to an institution with re-  
19 spect to a contract shall only—

20 “(A) waive the prohibition under sub-  
21 section (a) for a 1-year period; and

22 “(B) apply to the terms and conditions of  
23 the proposed contract submitted as part of the  
24 request for such waiver.

1           “(c) DESIGNATION DURING CONTRACT TERM.—In  
2 the case of an institution that enters into a contract with  
3 a foreign source that is not a foreign country of concern  
4 or a foreign entity of concern but which, during the term  
5 of such contract, is designated as a foreign country of con-  
6 cern or foreign entity of concern, such institution shall ter-  
7 minate such contract not later than 60 days after the Sec-  
8 retary notifies the institution of such designation.

9           “(d) CONTRACT DEFINED.—The term ‘contract’ has  
10 the meaning given such term in section 117(g).”.

11           (c) INTERAGENCY INFORMATION SHARING.—Not  
12 later than 90 days after the date of the enactment of this  
13 Act, the Secretary of Education shall transmit to the  
14 heads of each agency and department listed in section  
15 117(e) of the Higher Education Act of 1965, as amended  
16 by this Act—

17           (1) any report received by the Department of  
18 Education under section 117 of the Higher Edu-  
19 cation Act of 1965 (20 U.S.C. 1011f) prior to the  
20 date of the enactment of this Act; and

21           (2) any report, document, or other record gen-  
22 erated by the Department of Education in the  
23 course of an investigation—

1 (A) of an institution with respect to the  
2 compliance of such institution with such sec-  
3 tion; and

4 (B) initiated prior to the date of the enact-  
5 ment of this Act.

6 **SEC. 3. POLICY REGARDING CONFLICTS OF INTEREST**  
7 **FROM FOREIGN GIFTS AND CONTRACTS.**

8 The Higher Education Act of 1965 (20 U.S.C. 1001  
9 et seq.), as amended by section 2 of this Act, is further  
10 amended by inserting after section 117A the following:

11 **“SEC. 117B. INSTITUTIONAL POLICY REGARDING FOREIGN**  
12 **GIFTS AND CONTRACTS TO FACULTY AND**  
13 **STAFF.**

14 “(a) REQUIREMENT TO MAINTAIN POLICY AND  
15 DATABASE.—Beginning not later than 90 days after the  
16 date of the enactment of the DETERRENT Act, each in-  
17 stitution described in subsection (b) shall maintain—

18 “(1) a policy requiring covered individuals em-  
19 ployed at the institution to disclose in a report to  
20 such institution on July 31 of each calendar year  
21 that begins after the year in which such enactment  
22 date occurs—

23 “(A) any gift received from a foreign  
24 source in the previous calendar year, the value  
25 of which is greater than the minimal value (as

1 such term is defined in section 7342(a) of title  
2 5, United States Code) or is of undetermined  
3 value, and including the date on which the gift  
4 was received;

5 “(B) any contract entered into with a for-  
6 eign source in the previous calendar year, the  
7 value of which is \$5,000 or more, considered  
8 alone or in combination with all other contracts  
9 with that foreign source within the calendar  
10 year, and including the date on which such con-  
11 tract commences and, as applicable, the date on  
12 which such contract terminates;

13 “(C) any contract with a foreign source in  
14 force during the previous calendar year that has  
15 an undetermined monetary value, and including  
16 the date on which such contract commences  
17 and, as applicable, the date on which such con-  
18 tract terminates; and

19 “(D) any contract entered into with a for-  
20 eign country of concern or foreign entity of con-  
21 cern in the previous calendar year, the value of  
22 which is \$0 or more, and including the begin-  
23 ning and ending dates of such contract and the  
24 full text of such contract and any addenda;

1           “(2) a publicly available and searchable data-  
2           base (in electronic and downloadable format), on a  
3           website of the institution, of the information re-  
4           quired to be disclosed under paragraph (1) that—

5                   “(A) makes available the information dis-  
6                   closed under paragraph (1) beginning on the  
7                   date that is 30 days after receipt of the report  
8                   under such paragraph containing such informa-  
9                   tion and until the latest of—

10                           “(i) the date that is 4 years after the  
11                           date on which—

12                                   “(I) a gift referred to in para-  
13                                   graph (1)(A) is received; or

14                                   “(II) a contract referred to in  
15                                   subparagraph (B), (C) or (D) of para-  
16                                   graph (1) begins; or

17                           “(ii) the date on which a contract re-  
18                           ferred to in subparagraph (B), (C) or (D)  
19                           of paragraph (1) terminates; and

20                   “(B) is searchable and sortable by—

21                           “(i) the date received (if a gift) or the  
22                           date commenced (if a contract);

23                           “(ii) the attributable country with re-  
24                           spect to which information is being dis-  
25                           closed;



1                   “(iii) name of the individual making  
2                   the disclosure; and

3                   “(iv) the name of the foreign source  
4                   (other than a foreign source who is a nat-  
5                   ural person);

6                   “(3) a plan effectively to identify and manage  
7                   potential information gathering by foreign sources  
8                   through espionage targeting covered individuals that  
9                   may arise from gifts received from, or contracts en-  
10                  tered into with, a foreign source, including through  
11                  the use of—

12                  “(A) periodic communications;

13                  “(B) accurate reporting under paragraph  
14                  (2) of the information required to be disclosed  
15                  under paragraph (1); and

16                  “(C) enforcement of the policy described in  
17                  paragraph (1).

18                  “(b) INSTITUTIONS.—An institution shall be subject  
19                  to the requirements of this section if such institution—

20                  “(1) is an eligible institution for the purposes  
21                  of any program authorized under title IV; and

22                  “(2)(A) received more than \$50,000,000 in  
23                  Federal funds in any of the previous five calendar  
24                  years to support (in whole or in part) research and  
25                  development (as determined by the institution and

1 measured by the Higher Education Research and  
2 Development Survey of the National Center for  
3 Science and Engineering Statistics); or

4 “(B) receives funds under title VI.

5 “(c) DEFINITIONS.—In this section—

6 “(1) the terms ‘foreign source’ and ‘gift’ have  
7 the meanings given such terms in section 117(g);

8 “(2) the term ‘contract’—

9 “(A) means any—

10 “(i) agreement for the acquisition, by  
11 purchase, lease, or barter, of property or  
12 services by a foreign source;

13 “(ii) affiliation, agreement, or similar  
14 transaction with a foreign source involving  
15 the use or exchange of the name, likeness,  
16 time, services, or resources of covered indi-  
17 viduals employed at an institution de-  
18 scribed in subsection (b); or

19 “(iii) purchase, lease, or barter of  
20 property or services from a foreign source  
21 that is a foreign country of concern or a  
22 foreign entity of concern; and

23 “(B) does not include any fair-market,  
24 arms-length agreement made by covered indi-  
25 viduals for the acquisition, by purchase, lease,

1 or barter of property or services from a foreign  
2 source other than such a foreign source that is  
3 a foreign country of concern or a foreign entity  
4 of concern;

5 “(3) the term ‘covered individual’—

6 “(A) has the meaning given such term in  
7 section 223(d) of the William M. (Mac) Thorn-  
8 berry National Defense Authorization Act for  
9 Fiscal Year 2021 (42 U.S.C. 6605); and

10 “(B) shall be interpreted in accordance  
11 with the Guidance for Implementing National  
12 Security Presidential Memorandum 33 (NSPM-  
13 33) on National Security Strategy for United  
14 States Government-supported Research and De-  
15 velopment published by the Subcommittee on  
16 Research Security and the Joint Committee on  
17 the Research Environment in January 2022;  
18 and

19 “(4) the term ‘professional staff’ means profes-  
20 sional employees, as defined in section 3 of the Fair  
21 Labor Standards Act of 1938 (29 U.S.C. 203).”.

22 **SEC. 4. INVESTMENT DISCLOSURE REPORT.**

23 The Higher Education Act of 1965 (20 U.S.C. 1001  
24 et seq.), as amended by section 3 of this Act, is further  
25 amended by inserting after section 117B the following:

1 **“SEC. 117C. INVESTMENT DISCLOSURE REPORT.**

2 “(a) INVESTMENT DISCLOSURE REPORT.—A speci-  
3 fied institution shall file a disclosure report in accordance  
4 with subsection (b) with the Secretary on July 31 imme-  
5 diately following any calendar year in which the specified  
6 institution purchases, sells, or holds (directly or indirectly  
7 through any chain of ownership) one or more investments  
8 of concern.

9 “(b) CONTENTS OF REPORT.—Each report to the  
10 Secretary required by subsection (a) with respect to any  
11 calendar year shall contain the following:

12 “(1) A list of the investments of concern pur-  
13 chased, sold, or held during such calendar year.

14 “(2) The aggregate fair market value of all in-  
15 vestments of concern held as of the close of such cal-  
16 endar year.

17 “(3) The combined value of all investments of  
18 concern sold over the course of such calendar year,  
19 as measured by the fair market value of such invest-  
20 ments at the time of the sale.

21 “(4) The combined value of all capital gains  
22 from such sales of investments of concern.

23 “(c) INCLUSION OF CERTAIN POOLED FUNDS.—

24 “(1) IN GENERAL.—An investment of concern  
25 acquired through a regulated investment company,  
26 exchange traded fund, or any other pooled invest-

1       ment shall be treated as acquired through a chain of  
2       ownership referred to in subsection (a), unless such  
3       pooled investment is certified by the Secretary as  
4       not holding any listed investments in accordance  
5       with subparagraph (B) of paragraph (2).

6               “(2) CERTIFICATIONS OF POOLED FUNDS.—  
7       The Secretary, after consultation with the Secretary  
8       of the Treasury, shall establish procedures under  
9       which certain regulated investment companies, ex-  
10      change traded funds, and other pooled invest-  
11      ments—

12               “(A) shall be reported in accordance with  
13               the requirements under subsection (b); and

14               “(B) may be certified by the Secretary as  
15               not holding any listed investments.

16               “(d) TREATMENT OF RELATED ORGANIZATIONS.—  
17      For purposes of this section, assets held by any related  
18      organization (as defined in section 4968(d)(2) of the In-  
19      ternal Revenue Code of 1986) with respect to a specified  
20      institution shall be treated as held by such specified insti-  
21      tution, except that—

22               “(1) such assets shall not be taken into account  
23               with respect to more than 1 specified institution;  
24               and

1           “(2) unless such organization is controlled by  
2           such institution or is described in section 509(a)(3)  
3           of the Internal Revenue Code of 1986 with respect  
4           to such institution, assets which are not intended or  
5           available for the use or benefit of such specified in-  
6           stitution shall not be taken into account.

7           “(e) VALUATION OF DEBT.—For purposes of this  
8           section, the fair market value of any debt shall be the prin-  
9           cipal amount of such debt.

10          “(f) REGULATIONS.—The Secretary, after consulta-  
11          tion with the Secretary of the Treasury, may issue such  
12          regulations or other guidance as may be necessary or ap-  
13          propriate to carry out the purposes of this section, includ-  
14          ing regulations or other guidance providing for the proper  
15          application of this section with respect to certain regulated  
16          investment companies, exchange traded funds, and pooled  
17          investments.

18          “(g) COMPLIANCE OFFICER.—Any specified institu-  
19          tion that is required to submit a report under subsection  
20          (a) shall designate, before the submission of such report,  
21          and maintain a compliance officer, who shall—

22                  “(1) be a current employee or legally authorized  
23                  agent of such institution;

1           “(2) be responsible, on behalf of the institution,  
2           for personally certifying accurate compliance with  
3           the reporting requirements under this section; and

4           “(3) certify the institution has, for purposes of  
5           filing such report under subsection (a), followed an  
6           established institutional policy and conducted good  
7           faith efforts and reasonable due diligence to deter-  
8           mine the accuracy and valuations of the assets re-  
9           ported.

10          “(h) DATABASE REQUIREMENT.—Beginning not  
11 later than 60 days before the July 31 immediately fol-  
12 lowing the date of the enactment of the DETERRENT  
13 Act, the Secretary shall—

14           “(1) establish and maintain a searchable data-  
15           base on a website of the Department, under which  
16           all reports submitted under this section—

17                   “(A) are made publicly available (in elec-  
18                   tronic and downloadable format), including any  
19                   information provided in such reports;

20                   “(B) can be individually identified and  
21                   compared; and

22                   “(C) are searchable and sortable; and

23           “(2) not later than 30 days after receipt of a  
24           disclosure report under this section, include such re-  
25           port in such database.

1 “(i) DEFINITIONS.—In this section:

2 “(1) INVESTMENT OF CONCERN.—

3 “(A) IN GENERAL.—The term ‘investment  
4 of concern’ means any specified interest with  
5 respect to any of the following:

6 “(i) A foreign country of concern.

7 “(ii) A foreign entity of concern.

8 “(B) SPECIFIED INTEREST.—The term  
9 ‘specified interest’ means, with respect to any  
10 entity—

11 “(i) stock or any other equity or prof-  
12 its interest of such entity;

13 “(ii) debt issued by such entity; and

14 “(iii) any contract or derivative with  
15 respect to any property described in clause  
16 (i) or (ii).

17 “(2) SPECIFIED INSTITUTION.—

18 “(A) IN GENERAL.—The term ‘specified  
19 institution’, as determined with respect to any  
20 calendar year, means an institution if—

21 “(i) such institution is not a public in-  
22 stitution; and

23 “(ii) the aggregate fair market value  
24 of—



1                   “(I) the assets held by such insti-  
2                   tution at the end of such calendar  
3                   year (other than those assets which  
4                   are used directly in carrying out the  
5                   institution’s exempt purpose) is in ex-  
6                   cess of \$6,000,000,000; or

7                   “(II) the investments of concern  
8                   held by such institution at the end of  
9                   such calendar year is in excess of  
10                  \$250,000,000

11                  “(B) REFERENCES TO CERTAIN TERMS.—  
12                  For the purpose of applying the definition  
13                  under subparagraph (A), the terms ‘aggregate  
14                  fair market value’ and ‘assets which are used  
15                  directly in carrying out the institution’s exempt  
16                  purpose’ shall be applied in the same manner as  
17                  such terms are applied for the purposes of sec-  
18                  tion 4968(b)(1)(D) of the Internal Revenue  
19                  Code of 1986.”.

20   **SEC. 5. ENFORCEMENT AND OTHER GENERAL PROVISIONS.**

21                  (a) ENFORCEMENT AND OTHER GENERAL PROVI-  
22                  SIONS.—The Higher Education Act of 1965 (20 U.S.C.  
23                  1001 et seq.), as amended by section 4 of this Act, is fur-  
24                  ther amended by inserting after section 117C the fol-  
25                  lowing:

1 **“SEC. 117D. ENFORCEMENT; SINGLE POINT-OF-CONTACT.**

2 “(a) ENFORCEMENT.—

3 “(1) INVESTIGATION.—The Secretary (acting  
4 through the General Counsel of the Department)  
5 shall conduct investigations of possible violations of  
6 sections 117, 117A, 117B, and 117C by institutions.

7 “(2) CIVIL ACTION.—Whenever it appears that  
8 an institution has knowingly or willfully failed to  
9 comply with a requirement of any of the sections  
10 listed in paragraph (1) (including any rule or regula-  
11 tion promulgated under any such section) based on  
12 such an investigation, a civil action shall be brought  
13 by the Attorney General, at the request of the Sec-  
14 retary, in an appropriate district court of the United  
15 States, or the appropriate United States court of  
16 any territory or other place subject to the jurisdic-  
17 tion of the United States, to request such court to  
18 compel compliance with the requirement of the sec-  
19 tion that has been violated.

20 “(3) COSTS AND OTHER FINES.—An institution  
21 that is compelled to comply with a requirement of a  
22 section listed in paragraph (1) pursuant to para-  
23 graph (2) shall—

24 “(A) pay to the Treasury of the United  
25 States the full costs to the United States of ob-  
26 taining compliance with the requirement of such

1 section, including all associated costs of inves-  
2 tigation and enforcement; and

3 “(B) be subject to the applicable fines de-  
4 scribed in paragraph (4).

5 “(4) FINES FOR VIOLATIONS.—The Secretary  
6 shall impose a fine on an institution that knowingly  
7 or willfully fails to comply with a requirement of a  
8 section listed in paragraph (1) as follows:

9 “(A) SECTION 117.—

10 “(i) FIRST-TIME VIOLATIONS.—In the  
11 case of an institution that knowingly or  
12 willfully fails to comply with a requirement  
13 of section 117 with respect to a calendar  
14 year, and that has not previously know-  
15 ingly or willfully failed to comply with such  
16 a requirement, the Secretary shall impose  
17 a fine on the institution for such violation  
18 as follows:

19 “(I) In the case of an institution  
20 that knowingly or willfully fails to  
21 comply with a reporting requirement  
22 under subsection (a)(1) of section  
23 117, such fine shall be in an amount  
24 that is—

1                   “(aa) not less than \$50,000  
2                   but not more than the monetary  
3                   value of the gift from, or contract  
4                   with, the foreign source; or

5                   “(bb) in the case of a gift or  
6                   contract of no value or of inde-  
7                   terminable value, not less than 1  
8                   percent, and not more than 10  
9                   percent of the total amount of  
10                  Federal funds received by the in-  
11                  stitution under this Act for the  
12                  most recent fiscal year.

13                  “(II) In the case of an institution  
14                  that knowingly or willfully fails to  
15                  comply with the reporting requirement  
16                  under subsection (a)(2) of section  
17                  117, such fine shall be in an amount  
18                  that is not less than 10 percent of the  
19                  total amount of Federal funds re-  
20                  ceived by the institution under this  
21                  Act for the most recent fiscal year.

22                  “(ii) SUBSEQUENT VIOLATIONS.—In  
23                  the case of an institution that has been  
24                  fined pursuant to clause (i) with respect to  
25                  a calendar year, and that knowingly or

1 willfully fails to comply with a requirement  
2 of section 117 with respect to any addi-  
3 tional calendar year, the Secretary shall  
4 impose a fine on the institution with re-  
5 spect to any such additional calendar year  
6 as follows:

7 “(I) In the case of an institution  
8 that knowingly or willfully fails to  
9 comply with a reporting requirement  
10 under subsection (a)(1) of section 117  
11 with respect to an additional calendar  
12 year, such fine shall be in an amount  
13 that is—

14 “(aa) not less than  
15 \$100,000 but not more than  
16 twice the monetary value of the  
17 gift from, or contract with, the  
18 foreign source; or

19 “(bb) in the case of a gift or  
20 contract of no value or of inde-  
21 terminable value, not less than 1  
22 percent, but not more than 10  
23 percent, of the total amount of  
24 Federal funds received by the in-

1                   stitution under this Act for the  
2                   most recent fiscal year.

3                   “(II) In the case of an institution  
4                   that knowingly or willfully fails to  
5                   comply with a reporting requirement  
6                   under subsection (a)(2) of section 117  
7                   with respect to an additional calendar  
8                   year, such fine shall be in an amount  
9                   that is not less than 20 percent of the  
10                  total amount of Federal funds re-  
11                  ceived by the institution under this  
12                  Act for the most recent fiscal year.

13                  “(B) SECTION 117A.—

14                  “(i) FIRST-TIME VIOLATIONS.—In the  
15                  case of an institution that knowingly or  
16                  willfully fails to comply with a requirement  
17                  of section 117A for the first time, the Sec-  
18                  retary shall impose a fine on the institu-  
19                  tion in an amount that is not less than 5  
20                  percent, but not more than 10 percent, of  
21                  the total amount of Federal funds received  
22                  by the institution under this Act for the  
23                  most recent fiscal year.

24                  “(ii) SUBSEQUENT VIOLATIONS.—In  
25                  the case of an institution that has been

1            fined pursuant to clause (i), the Secretary  
2            shall impose a fine on the institution for  
3            each subsequent time the institution know-  
4            ingly or willfully fails to comply with a re-  
5            quirement of section 117A in an amount  
6            that is not less than 20 percent of the total  
7            amount of Federal funds received by the  
8            institution under this Act for the most re-  
9            cent fiscal year.

10           “(C) SECTION 117B.—

11                 “(i) FIRST-TIME VIOLATIONS.—In the  
12           case of an institution that knowingly or  
13           willfully fails to comply with a requirement  
14           of section 117B with respect to a calendar  
15           year, and that has not previously know-  
16           ingly or willfully failed to comply with such  
17           a requirement, the Secretary shall impose  
18           a fine on the institution of not less than  
19           \$250,000, but not more than the total  
20           amount of gifts or contracts reported by  
21           such institution in the database required  
22           under section 117B(a)(2).

23                 “(ii) SUBSEQUENT VIOLATIONS.—In  
24           the case of an institution that has been  
25           fined pursuant to clause (i) with respect to

1 a calendar year, and that knowingly or  
2 willfully fails to comply with a requirement  
3 of section 117B with respect to any addi-  
4 tional calendar year, the Secretary shall  
5 impose a fine on the institution with re-  
6 spect to any such additional calendar year  
7 in an amount that is not less than  
8 \$500,000, but not more than twice the  
9 total amount of gifts or contracts reported  
10 by such institution in the database re-  
11 quired under section 117B(a)(2).

12 “(D) SECTION 117C.—

13 “(i) FIRST-TIME VIOLATIONS.—In the  
14 case of a specified institution that know-  
15 ingly or willfully fails to comply with a re-  
16 quirement of section 117C with respect to  
17 a calendar year, and that has not pre-  
18 viously knowingly or willfully failed to com-  
19 ply with such a requirement, the Secretary  
20 shall impose a fine on the institution in an  
21 amount that is not less than 50 percent  
22 and not more than 100 percent of the sum  
23 of—

24 “(I) the aggregate fair market  
25 value of all investments of concern



1 held by such institution as of the close  
2 of such calendar year; and

3 “(II) the combined value of all  
4 investments of concern sold over the  
5 course of such calendar year, as meas-  
6 ured by the fair market value of such  
7 investments at the time of the sale.

8 “(ii) SUBSEQUENT VIOLATIONS.—In  
9 the case of a specified institution that has  
10 been fined pursuant to clause (i) with re-  
11 spect to a calendar year, and that know-  
12 ingly or willfully fails to comply with a re-  
13 quirement of section 117C with respect to  
14 any additional calendar year, the Secretary  
15 shall impose a fine on the institution with  
16 respect to any such additional calendar  
17 year in an amount that is not less than  
18 100 percent and not more than 200 per-  
19 cent of the sum of—

20 “(I) the aggregate fair market  
21 value of all investments of concern  
22 held by such institution as of the close  
23 of such additional calendar year; and

24 “(II) the combined value of all  
25 investments of concern sold over the

1 course of such additional calendar  
2 year, as measured by the fair market  
3 value of such investments at the time  
4 of the sale.

5 “(b) SINGLE POINT-OF-CONTACT AT THE DEPART-  
6 MENT.—The Secretary shall maintain a single point-of-  
7 contact at the Department to—

8 “(1) receive and respond to inquiries and re-  
9 quests for technical assistance from institutions re-  
10 garding compliance with the requirements of sec-  
11 tions 117, 117A, 117B, and 117C;

12 “(2) coordinate and implement technical im-  
13 provements to the database described in section  
14 117(d)(1), including—

15 “(A) improving upload functionality by al-  
16 lowing for batch reporting;

17 “(B) publishing and maintaining a data-  
18 base users guide annually, including areas such  
19 as how to edit an entry and how to report er-  
20 rors; and

21 “(C) creating a user group (to which chap-  
22 ter 10 of title 5, United States Code, shall not  
23 apply) to discuss possible database improve-  
24 ments;

1           “(3) provide, every 90 days after the date of en-  
2           actment of the DETERRENT Act, status updates  
3           on any pending or completed investigations and civil  
4           actions under subsection (a)(1) to—

5                   “(A) the authorizing committees; and

6                   “(B) any institution that is the subject of  
7           such investigation or action;

8           “(4) maintain, on a publicly accessible  
9           website—

10                   “(A) a full comprehensive list of all foreign  
11           countries of concern and foreign entities of con-  
12           cern; and

13                   “(B) the date on which the last update was  
14           made to such list; and

15           “(5) not later than 7 days after making an up-  
16           date to the list maintained in paragraph (4)(A), no-  
17           tify each institution required to comply with the sec-  
18           tions listed in paragraph (1) of such update.

19           “(c) DEFINITIONS.—For purposes of sections 117,  
20           117A, 117B, 117C, and this section:

21                   “(1) FOREIGN COUNTRY OF CONCERN.—The  
22           term ‘foreign country of concern’ includes the fol-  
23           lowing:

1           “(A) A country that is a covered nation (as  
2           defined in section 4872(d) of title 10, United  
3           States Code).

4           “(B) Any country that the Secretary, in  
5           consultation with the Secretary of Defense, the  
6           Secretary of State, and the Director of National  
7           Intelligence, determines to be engaged in con-  
8           duct that is detrimental to the national security  
9           or foreign policy of the United States.

10          “(2) FOREIGN ENTITY OF CONCERN.—The  
11          term ‘foreign entity of concern’ has the meaning  
12          given such term in section 10612(a) of the Research  
13          and Development, Competition, and Innovation Act  
14          (42 U.S.C. 19221(a)) and includes a foreign entity  
15          that is identified on the list published under section  
16          1286(e)(8)(A) of the John S. McCain National De-  
17          fense Authorization Act for Fiscal Year 2019 (10  
18          U.S.C. 22 4001 note; Public Law 115–232).

19          “(3) INSTITUTION.—The term ‘institution’  
20          means an institution of higher education (as such  
21          term is defined in section 102, other than an institu-  
22          tion described in subsection (a)(1)(c) of such sec-  
23          tion).”.

1 (b) PROGRAM PARTICIPATION AGREEMENT.—Section  
2 487(a) of the Higher Education Act of 1965 (20 U.S.C.  
3 1094) is amended by adding at the end the following:

4 “(30)(A) An institution will comply with the re-  
5 quirements of sections 117, 117A, 117B, and 117C.

6 “(B) An institution that, for 3 consecutive in-  
7 stitutional fiscal years, violates any requirement of  
8 any of the sections listed in subparagraph (A),  
9 shall—

10 “(i) be ineligible to participate in the pro-  
11 grams authorized by this title for a period of  
12 not less than 2 institutional fiscal years; and

13 “(ii) in order to regain eligibility to partici-  
14 pate in such programs, demonstrate compliance  
15 with all requirements of each such section for  
16 not less than 2 institutional fiscal years after  
17 the institutional fiscal year in which such insti-  
18 tution became ineligible.”.

19 (c) GAO STUDY.—Not later than one year after the  
20 date of the enactment of this Act, the Comptroller General  
21 of the United States—

22 (1) shall conduct a study to identify ways to  
23 improve intergovernmental agency coordination re-  
24 garding implementation and enforcement of sections  
25 117, 117A, 117B, and 117C of the Higher Edu-

1 cation Act of 1965 (20 U.S.C. 1011f), as amended  
2 or added by this Act, including increasing informa-  
3 tion sharing, increasing compliance rates, and estab-  
4 lishing processes for enforcement; and  
5 (2) shall submit to the Congress, and make  
6 public, a report containing the results of such study.

